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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,086	03/31/2004	Heinrich Roder	130229-02	7307

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ANN ARBOR, MI 48104

EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,086

Applicant(s)

RODER ET AL.

Examiner

Michael P. Ferguson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 4, 2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 (line 7) recites "comprising an upper and a lower edge.. at each respective end". It is unclear as to which end of each shell segment the upper and lower edges are disposed. It is unclear as to whether the upper and lower edges are disposed at respective axial ends of each shell segment or radial ends of each shell segment. Accordingly, one is unable to determine the metes and bounds of such claim.

Claims 2-9 depend from claim 1 and are likewise rejected.

Claim 9 (line 1) recites "A locking device for a pivot connection of a ceiling-mounted medical supply unit". It is unclear as to whether just a locking device is being

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claimed, or whether a system comprising a locking device and a ceiling-mounted medical supply unit is being positively claimed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

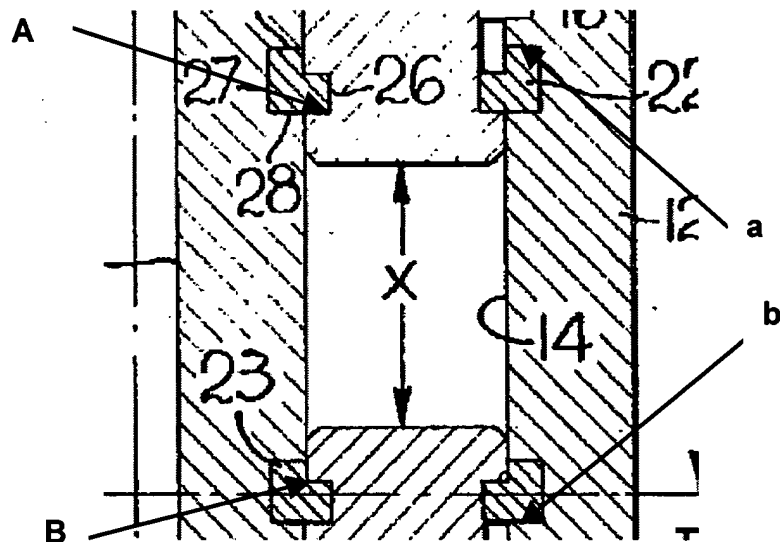
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Draut (US 3,838,987).

As to claim 1, Draut discloses a locking device capable of vertical connection of an upper connection component **18**, that comprises an upper engaging section, to a lower connection component **19**, that comprises a lower engaging section, the locking device comprising two shell segments **11,12** each of which only partially extends around opposite vertical sides of the connection from the outside and in a horizontal direction, with the shell segments comprising an upper and a lower edge **a,b** (upper and lower edges **a,b** are defined by annular grooves in shell segments **11,12**; Figure 1 reprinted below with annotations) at a respective axial end of the shell segment adjacent to each of which is provided an upper and a lower engaging section facing upper and lower engaging sections **23,A,23,B** of the upper and lower connection components so that, should the connection of the two connection components come apart, the upper engaging section of the shell segments is supported against the upper engaging sections **22,A** provided at the upper connection component, while the lower engaging

section of the shell segments holds the lower engaging sections **23,B** of the lower connection component (Figures 1-3).

Applicant is reminded that orientation is based upon the angle at which an object is viewed.



As to claim 2, Draut discloses a locking device further comprising an upper and a lower washer **22,23** each being assembled of first and second washer segments, the washers being configured so that each can be pushed onto the connection from the outside and in horizontal direction, whereby, when installed, the upper washer **22** is fixed to the upper connection component **18** and the lower washer **23** to the lower connection component **19**, whereby upper and lower engaging sections are each formed on the respective washer segments (Figures 1 and 3).

As to claim 3, Draut discloses a locking device wherein the shell segments **11,12** are connected to each other in the installed state (Figure 2).

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As to claim 4, Draut discloses a locking device wherein the engaging sections of each shell segment **11,12** are each formed by a projection that is formed from the upper or lower edge at an essentially right angle (Figure 1).

The applicant is reminded that patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 5, Draut discloses a locking device wherein the engaging section of each washer segment **22,23** is formed by a projection protruding from the outer perimeter of the washer segment (Figure 1).

As to claim 6, Draut discloses a locking device wherein the projection protruding from the outer perimeter is stepped (Figure 1).

As to claim 7, Draut discloses a locking device wherein the engaging sections of each shell segment **11,12** extend along the entire upper or lower edge (Figure 2).

As to claim 8, Draut discloses a locking device wherein the engaging section of each washer segment **22,23** extends along the entire outer perimeter (Figure 3).

As to claim 9, Draut discloses a locking device capable of use with a pivot connection of a ceiling-mounted medical supply unit.

### ***Response to Arguments***

6. Applicant's arguments filed January 4, 2006 have been fully considered but they are not persuasive.

As to claim 1, Attorney argues that:

Draut does not disclose a locking device comprising two shell segments each comprising *an upper and a lower edge*.

Examiner disagrees. As to claim 1, Draut discloses a locking device comprising two shell segments **11,12** each comprising an upper and a lower edge **a,b** (upper and lower edges **a,b** are defined by annular grooves in shell segments **11,12**; Figure 1 reprinted below with annotations).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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03/13/06



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